IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 19TH DECEMBER 2007 / 28TH AGRAHAYANA 1929

Crl.MC.No. 3819 of 2007()

LP.110/2007 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR

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PETITIONER/ACCUSED:

KUNJUMON @ VARGHESE
AGED 32 YEARS, S/O. KUNJU @ PATHROS
MOOPPATTIL HOUSE, URULANKUNNU
CHENNAYAPPARA P.O., PEECHI VILLAGE
MANNAMANGALAM, THRISSUR.

BY ADV. SRI.A.C.DEVY

RESPONDENT/COMPLAINANT:

THE STATE OF KERALA, REP. BY
PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.M.S. BREEZ

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 19/12/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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Crl.M.C.No. 3819 of 2007

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Dated this the 19th day of December, 2007

O R D E R

The petitioner faces indictment in a prosecution for offences punishable, inter alia, under Section 452 I.P.C. Final report has been filed. Cognizance was taken. Consequent to the non-appearance of the petitioner, the case against him has been transferred to the list of long pending cases. Coercive processes have been issued against the petitioner. The petitioner finds such coercive processes issued by the learned Magistrate chasing him.

2. According to the petitioner he is absolutely innocent. His absence was not willful or deliberate, but on account of reasons beyond his control. He is willing to surrender before the learned Magistrate, but he apprehends that his application for bail may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously. It is in these

circumstances prayed that appropriate directions may be issued to release the petitioner on bail on the date of surrender itself.

3. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Sessions Magistrate would not consider the application for bail to be filed by the petitioner when he surrenders before the learned Magistrate on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued by this Court in the decision in **Alice George** v. **Dy.S.P. of Police** (2003 (1) KLT 339).

4. This application is accordingly dismissed. I may however hasten to observe that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

5. The learned counsel for the petitioner submits that the matter is settled between the parties. Appropriate request can be made before the learned Magistrate about the said settlement. Needless to say, appropriate orders on the prayer for composition must be passed by the learned Mag.

(R. BASANT)
Judge

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